

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

DANIEL W. MARTIN,)	
)	
Plaintiff,)	
)	
v.)	No. 22-05007-CV-SW-DPR
)	
R&S CUSTOM HAULING, LLC, et al.,)	
)	
Defendants.)	

ORDER

On January 27, 2022, Defendant Roger L. Galla removed this action to this Court from the Circuit Court of Lawrence County, Missouri. (Doc. 1.) Prior to removal, on January 10, 2022 in state court, Plaintiff filed his First Amended Petition, which is the operative pleading in this action. (Doc. 1-1 at 4.) Although “R&S CUSTOM HAULING, LLC” is listed in the caption of the First Amended Petition, the caption is “not controlling in determining the parties.” *Greenwood v. Ross*, 778 F.2d 448, 452 (8th Cir. 1985). Also, the body of the First Amended Complaint contains no claims against nor any further reference to “R&S CUSTOM HAULING, LLC.” (Doc. 1-1 at 4-21.) Accordingly, the undersigned concludes that “R&S CUSTOM HAULING, LLC” was not a party to this action at the time of removal.¹

Based on the foregoing, the Clerk’s Office is directed to terminate “R&S CUSTOM HAULING, LLC” as a party on CM/ECF as of the date of removal, January 27, 2022.

IT IS SO ORDERED.

/s/ David P. Rush
DAVID P. RUSH
UNITED STATES MAGISTRATE JUDGE

DATE: March 2, 2022

¹ This conclusion is supported by the fact that Plaintiff filed a motion to dismiss Defendant R & S Custom Hauling, LLC in the state court on January 5, 2022. (Doc. 1-1 at 36.)